

HOUSE BILL NO. 361

INTRODUCED BY WISEMAN, HANDS, BRUEGGEMAN, ZINKE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF ENERGY IMPROVEMENT DISTRICTS; PROVIDING FOR THE ISSUANCE OF BONDS TO BE USED TO FUND LOANS TO PROPERTY OWNERS WITHIN AN ENERGY IMPROVEMENT DISTRICT FOR THE PURPOSES OF FINANCING THE INSTALLATION OF ~~DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES~~ OFF-GRID RENEWABLE ENERGY SYSTEMS OR ENERGY EFFICIENCY IMPROVEMENTS THAT ARE PERMANENTLY FIXED TO RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR OTHER REAL PROPERTY; ~~CLARIFYING THE AUTHORITY OF LOCAL GOVERNMENTS TO RENOVATE PRIVATE RESIDENCES FOR ENERGY CONSERVATION AND EFFICIENCY; AMENDING SECTIONS 7-15-2120, 7-15-4102, AND 7-15-4103, MCA;~~ ALLOWING LOAN PAYMENTS TO BE COLLECTED WITH PROPERTY TAXES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Energy improvement district -- definition. (1) The governing body of a county, an incorporated city or town, or a consolidated government may establish an energy improvement district. The purpose of an energy improvement district is to provide VOLUNTARY loans to property owners for purposes of financing the installation of ~~distributed generation renewable energy sources~~ OFF-GRID RENEWABLE ENERGY SYSTEMS or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

(2) The boundaries of the energy improvement district must coincide with the legal boundaries of the local government creating the district. However, a county energy improvement district may exclude the territory of an incorporated city or town if the incorporated city or town has already established an energy improvement district.

~~(3) As used in this [sections 1 through 7], "distributed generation renewable energy sources" means fixtures, products, systems, devices, or interacting groups of devices that are installed behind the meter of a residential, commercial, or industrial building and that produce energy from renewable resources, including but not limited to photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal~~

1 ~~systems.~~

2 (3) AS USED IN [SECTIONS 1 THROUGH 7]:

3 (A) "ENERGY EFFICIENCY IMPROVEMENTS" MEANS REDUCING THE WASTE OR DISSIPATION OF ENERGY OR
4 REDUCING THE AMOUNT OF ENERGY REQUIRED TO ACCOMPLISH A GIVEN QUANTITY OF WORK. THE TERM INCLUDES BUT
5 IS NOT LIMITED TO THE INSTALLATION OF GRAY WATER REUSE SYSTEM AS DEFINED IN 75-5-325.

6 (B) "OFF-GRID RENEWABLE ENERGY SYSTEM" MEANS A SYSTEM THAT IS NOT INTEGRATED INTO THE ELECTRICAL
7 GRID SYSTEM. THE TERM MAY INCLUDE:

8 (I) AS DEFINED IN 15-32-102, A PASSIVE SOLAR SYSTEM, A GEOTHERMAL SYSTEM, OR A LOW-EMISSION WOOD
9 OR BIOMASS COMBUSTION DEVICE;

10 (II) A SOLAR THERMAL HEATING SYSTEM; OR

11 (III) AN OFF-GRID ELECTRICAL GENERATING SYSTEM THAT USES RECOGNIZED NONFOSSIL FORMS OF ENERGY
12 GENERATION.

13
14 NEW SECTION. Section 2. Public hearing -- resolution of intention. (1) The governing body shall
15 hold at least one public hearing concerning the creation of a proposed energy improvement district prior to the
16 passage of a resolution of intention to create the district. A resolution of intention to create an energy
17 improvement district must be based upon a decision of the governing body.

18 (2) The resolution must designate:

19 (a) the proposed name of the district;

20 (b) the necessity for the proposed district;

21 (c) a general description of the territory or lands to be included within the proposed district, giving the
22 boundaries of the proposed district;

23 (d) the purpose for the proposed district;

24 (e) the estimated cost and method of financing the proposed district; and

25 (f) whether the proposed district would be administered by the governing body or an appointed or elected
26 board.

27 (3) The governing body shall publish notice of passage of the resolution of intention to create an energy
28 improvement district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice
29 must contain a notice of a hearing and the time and place where the hearing will be held.

30 (4) If a referendum is not held pursuant to [section 3], the governing body shall:

(a) immediately file with the secretary of state a certificate stating that the energy improvement district was created and record the certificate in the office of the clerk and recorder of the county in which the district is situated; and

(b) notify any municipalities lying within the boundaries of the district.

NEW SECTION. Section 3. Referendum -- election. (1) The governing body may order a referendum on the creation of the proposed energy improvement district to be submitted to the registered voters who reside within the proposed district.

(2) The referendum must state:

(a) the type of activities proposed to be financed, including a general description of the program or improvements;

(B) THAT ASSESSMENTS WILL BE LEVIED ONLY AGAINST PROPERTY OWNERS WHO VOLUNTARILY AGREE TO A LOAN FINANCED BY THE DISTRICT FOR OFF-GRID RENEWABLE ENERGY SYSTEMS OR ENERGY EFFICIENCY IMPROVEMENTS;

~~(b)(C)~~ a general description of the areas included in the proposed district; and

~~(e)(D)~~ whether the proposed district would be administered by the governing body or an appointed or elected board.

(3) The referendum must be held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19.

(4) The proposition to be submitted to the electorate must read: "Shall the proposition to organize (name of proposed energy improvement district) be adopted?"

(5) The referendum must be conducted, the vote canvassed, and the result declared in the same manner as provided by Title 13 with respect to general elections, as far as applicable.

(6) If the referendum is approved, the election administrator of the local government shall:

(a) immediately file with the secretary of state a certificate stating that the proposition was adopted and shall record the certificate in the office of the clerk and recorder of the county in which the energy improvement district is situated; and

(b) notify any municipalities lying within the boundaries of the district.

(7) WITHIN 60 DAYS AFTER THE CREATION OF AN ENERGY IMPROVEMENT DISTRICT OR BY JANUARY 1 OF THE EFFECTIVE TAX YEAR, WHICHEVER OCCURS FIRST, THE GOVERNING BODY SHALL PROVIDE TO THE DEPARTMENT OF REVENUE A:

1 (A) LEGAL DESCRIPTION OF THE ENERGY IMPROVEMENT DISTRICT;

2 (B) MAP OF ITS BOUNDARIES;

3 (C) COPY OF THE CERTIFICATE OF ESTABLISHMENT ISSUED PURSUANT TO [SECTION 4]; AND

4 (D) COPY OF ANY ADOPTED METHOD OF ASSESSMENT.

5
6 **NEW SECTION.** **Section 4. Certificate of establishment.** (1) Upon receipt of the certificate referred
7 to in [section 3(6)], the secretary of state shall, within 10 days, issue a certificate reciting that the energy
8 improvement district has been established according to the laws of the state of Montana. A copy of the certificate
9 must be transmitted to and filed with the clerk and recorder of the county in which the district is situated.

10 (2) When the certificate is issued by the secretary of state, the energy improvement district named in the
11 certificate is established with all the rights, privileges, and powers set forth in [section 5].

12
13 **NEW SECTION.** **Section 5. Governance -- powers and duties.** (1) An energy improvement district
14 must be administered and operated either by the governing body or by a separate elected or appointed board
15 as determined by the governing body.

16 (2) (a) If the energy improvement district is governed by a separate board, the board must be established
17 in accordance with Title 7, chapter 1, part 2, and specific powers and duties granted to the board and those
18 specifically withheld must be stated.

19 (b) The governing body may grant additional powers to the board. This includes the authorization to use
20 privately contracted legal counsel or the attorney of the governing body. If privately contracted legal counsel is
21 used, notice must be provided to the attorney of the governing body.

22 (c) The governing body has ultimate authority under this subsection (2).

23 (3) The entity chosen to administer the energy improvement district may:

24 (a) implement a program and order improvements for the district designed to fulfill the purposes of the
25 district;

26 (b) administer the budget of the district;

27 (c) employ personnel;

28 (d) purchase, rent, or lease equipment, personal property, and material necessary to develop an
29 effective district;

30 (e) cooperate or contract with any corporation, association, individual, or group of individuals, including

any agency of federal, state, or local government, in order to develop an effective district;

(f) receive gifts, grants, or donations for the purpose of advancing the district and, by gift, deed, devise, or purchase, acquire land, facilities, buildings, and material necessary to implement the purposes of the district;

(g) construct and maintain facilities and buildings necessary to accomplish the purposes of the district;

(h) establish district capital improvement funds pursuant to 7-6-616, maintenance funds, and debt service funds; and

(i) borrow money by the issuance of:

—— (i) ~~general obligation bonds as authorized by the governing body pursuant to Title 7, chapter 6, part 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or~~

—— (ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the funding of projects in the manner and subject to the appropriate provisions of Title 7, chapter 7, part 25 or 44.

(4) The entity chosen to administer the energy improvement district shall submit annual budget and work plans to the governing body for review and approval.

NEW SECTION. Section 6. Loans -- PROPERTY ASSESSMENT TO REPAY LOANS -- lien. (1) An energy improvement district may make loans to the owners of real property within the district for the purposes of financing the installation of ~~distributed generation renewable energy sources~~ OFF-GRID RENEWABLE ENERGY SYSTEMS or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property. The recipient of a loan shall use the loan proceeds for the purpose specified in the loan contract. The loan contract must contain a payment schedule and other provisions that the entity administering the energy improvement district considers appropriate.

(2) LOAN PAYMENTS MAY BE ASSESSED ON PROPERTY AS PROVIDED IN SUBSECTIONS (3) AND (4). THE LEGAL DESCRIPTION AND GEOCODE FOR EACH REAL PROPERTY SUBJECT TO THIS SUBSECTION MUST BE REPORTED BY THE ENTITY ADMINISTERING THE ENERGY IMPROVEMENT DISTRICT TO THE DEPARTMENT OF REVENUE ANNUALLY BY FEBRUARY 1.

(3) (A) EXCEPT AS PROVIDED IN SUBSECTION (4), IN EACH CITY OR TOWN WHERE TAXES FOR GENERAL, MUNICIPAL, AND ADMINISTRATIVE PURPOSES ARE CERTIFIED TO AND COLLECTED BY THE COUNTY TREASURER IMMEDIATELY AFTER THE SECOND MONDAY OF AUGUST OF EACH YEAR, IT IS THE DUTY OF THE CITY TREASURER OR TOWN CLERK TO CERTIFY TO THE DEPARTMENT OF REVENUE, AT THE SAME TIME THAT THE COPY OF THE RESOLUTION DETERMINING THE ANNUAL LEVY FOR GENERAL TAXES IS CERTIFIED BY THE CITY OR TOWN CLERK TO THE COUNTY CLERK, ALL ASSESSMENTS LEVIED AND ASSESSED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

1 (B) THE DEPARTMENT OF REVENUE SHALL ENTER THE ASSESSMENTS UPON THE PROPERTY TAX RECORD FOR
2 THE COUNTY. THE COUNTY TREASURER SHALL COLLECT THE ASSESSMENTS IN THE SAME MANNER AND AT THE SAME TIME
3 AS TAXES FOR GENERAL, MUNICIPAL, AND ADMINISTRATIVE PURPOSES ARE COLLECTED.

4 (4) (A) IN A CITY OR TOWN WHERE TAXES FOR GENERAL, MUNICIPAL, AND ADMINISTRATIVE PURPOSES ARE
5 CERTIFIED TO AND COLLECTED BY THE COUNTY TREASURER IN ACCORDANCE WITH THE PROVISIONS OF 7-6-4423, THE
6 CITY OR TOWN MAY PROVIDE BY ORDINANCE FOR THE COLLECTION BY ITS CITY TREASURER OR TOWN CLERK OF ALL
7 ASSESSMENTS LEVIED AND ASSESSED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION IN THE SAME MANNER AND
8 AT THE SAME TIME AS TAXES FOR GENERAL, MUNICIPAL, AND ADMINISTRATIVE PURPOSES ARE COLLECTED BY THE COUNTY
9 TREASURER. ALL OF THE PROVISIONS OF 7-6-4423 APPLY TO THE COLLECTION OF THE ASSESSMENTS IN THE SAME
10 MANNER AS THE PROVISIONS APPLY TO THE COLLECTION OF OTHER CITY OR TOWN TAXES.

11 (B) (I) WHEN THE PAYMENT OF ANY ONE INSTALLMENT OF ANY ASSESSMENT BECOMES DELINQUENT, ALL
12 PAYMENTS OF SUBSEQUENT INSTALLMENTS, AT THE OPTION OF THE CITY OR TOWN COUNCIL AND BY APPROPRIATE
13 RESOLUTION DULY ADOPTED, BECOME DELINQUENT. THE CITY OR TOWN COUNCIL MAY ORDER THAT ALL ASSESSMENTS
14 THAT ARE DELINQUENT AS A RESULT OF ACCELERATION BE WITHDRAWN.

15 (II) DELINQUENT ASSESSMENTS MUST BE CERTIFIED TO THE COUNTY CLERK OF THE COUNTY IN WHICH THE CITY
16 OR TOWN IS SITUATED. THE COUNTY TREASURER SHALL COLLECT THE DELINQUENT ASSESSMENTS IN THE SAME MANNER
17 AND AT THE SAME TIME THAT TAXES FOR GENERAL, MUNICIPAL, AND ADMINISTRATIVE PURPOSES ARE COLLECTED. IF THE
18 DELINQUENT ASSESSMENTS AND TAXES ARE NOT PAID, THE WHOLE PROPERTY MUST BE SOLD IN THE SAME MANNER THAT
19 OTHER PROPERTY IS SOLD FOR TAXES. THE ENFORCEMENT OF THE LIEN OF ANY INSTALLMENT OF AN ASSESSMENT BY ANY
20 METHOD AUTHORIZED BY LAW DOES NOT PREVENT THE ENFORCEMENT OF THE LIEN OF ANY SUBSEQUENT INSTALLMENT
21 WHEN IT BECOMES DELINQUENT.

22 (5) The energy improvement district has a lien on the real property on which the loan proceeds are used
23 for the amount of the loan reduced by the payments made on the loan. The lien may be enforced when the
24 property is sold if the loan is not repaid prior to the sale of the property; HOWEVER, THE ENERGY IMPROVEMENT
25 DISTRICT MAY ALLOW THE LIEN TO TRANSFER WITH THE SALE OF THE PROPERTY.

26
27 **NEW SECTION. Section 7. Dissolution of energy improvement district.** (1) An energy improvement
28 district may be dissolved if it is considered to be in the best interest of a local government or the inhabitants of
29 the local government or if the purpose for creating the district has been fulfilled and the district is not needed in
30 perpetuity.

(2) The governing body may pass a resolution of intention to dissolve an energy improvement district upon its own request or upon request of a separate board administering the district.

(3) After the passage of the resolution provided for in subsection (2), the clerk of the local government that established the energy improvement district shall publish a notice, as provided in 7-1-2121 or 7-1-4127, of the intention to dissolve the district.

(4) The notice must specify the boundaries of the energy improvement district to be dissolved, the date of the passage of the resolution of intention to dissolve, the date set for the passage of the resolution of dissolution, and that the resolution will be passed unless the clerk of the local government receives written protest in advance from 40% of registered voters or 40% of the owners of real property in the district.

(5) If the energy improvement district is dissolved, the clerk of the local government shall immediately send written notice to the secretary of state AND THE DEPARTMENT OF REVENUE, providing the same information required in [section 2] when a district is created.

(6) (A) The dissolution of an energy improvement district may not relieve the property owners from the payment of a sufficient amount to liquidate all charges existing against the district prior to the date of dissolution.

(B) IF LOAN PAYMENTS ARE STILL BEING COLLECTED BY THE GOVERNING BODY PURSUANT TO [SECTION 6] AFTER THE DISSOLUTION OF THE ENERGY IMPROVEMENT DISTRICT, THE GOVERNING BODY SHALL CONTINUE TO ANNUALLY REPORT ASSESSMENTS TO THE DEPARTMENT OF REVENUE.

(7) Any assets remaining after all debts and obligations of the energy improvement district have been paid, discharged, or irrevocably settled must be deposited in the general fund of the local government.

(8) If the remaining assets are derived from private grants or gifts that restrict the use of those funds, the funds must be returned to the grantor or donor.

~~Section 8. Section 7-15-2120, MCA, is amended to read:~~

~~"7-15-2120. Authorization for counties to furnish assistance in the rehabilitation of private dwellings. If it has determined that unsanitary, or unsafe, or energy inefficient privately owned dwellings exist in the unincorporated area of the county and it has further determined that the owners of such the dwellings are unable under the prevailing market conditions to finance replacement or rehabilitation of their dwellings without assistance, the board of county commissioners may:~~

~~(1) using the funds provided in subsection (2), finance the replacement or rehabilitation of such unsanitary, or unsafe, or energy inefficient privately owned dwellings through the use of grants of funds or~~

property, direct loans, loan guarantees, and any other means;

~~— (2) accept gifts of property or apply for and accept grants, contributions, and any other form of financial assistance from the federal government or the state or other public body or from any other public or private source for the purposes of this section and 7-15-2101 and this section; and~~

~~— (3) enter into and carry out contracts in connection with activities under subsection (1) or (2)."~~

~~Section 9. Section 7-15-4102, MCA, is amended to read:~~

~~"7-15-4102. Findings and policy with regard to unsanitary, and unsafe, and energy inefficient private dwellings. (1) It is hereby declared that:~~

~~— (a) unsanitary, or unsafe, and energy inefficient privately owned dwelling accommodations dwellings exist in urban areas throughout the state, and these conditions cause an increase in and spread of disease and crime, and constitute a menace to the health, morals, and welfare of the citizens of the state, and impair economic values;~~

~~— (b) in many instances, the owners of such the accommodations dwellings, due to poverty, unavailability of credit, and increased costs, are unable to finance the rehabilitation of their dwellings; and~~

~~— (c) the municipal corporations of the state are uniquely able to render financial assistance to these owners of unsafe, and unsanitary, and energy inefficient dwellings, and such that assistance is a public use and purpose for which public money may be spent.~~

~~— (2) The necessity for the provisions of 7-15-4103 is hereby declared, as a matter of legislative determination, to be in the public interest."~~

~~Section 10. Section 7-15-4103, MCA, is amended to read:~~

~~"7-15-4103. Authorization for municipalities to furnish assistance in the rehabilitation of private dwellings. When it has determined that unsanitary, or unsafe, or energy inefficient privately owned dwelling accommodations dwellings exist within the limits of the city or town and when it has further determined that the owners of such accommodations the dwellings are unable under the prevailing market conditions to finance rehabilitation of their dwellings without assistance, the governing body of any a municipal corporation:~~

~~— (1) may finance the rehabilitation of such the unsanitary, or unsafe, or energy inefficient privately owned dwelling accommodations dwellings through the use of grants of funds or property, direct loans, loan guarantees, and other means;~~

1 ~~——— (2) may apply for and accept advances, loans, grants, contributions, and any other form of financial~~
2 ~~assistance from the federal government or the state, county, or other public body or from any other public or~~
3 ~~private source for the purpose of this section and 7-15-4102 and this section; and~~

4 ~~——— (3) may enter into and carry out contracts in connection therewith with activities under subsection (1)~~
5 ~~or (2)."~~

6
7 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified
8 as an integral part of Title 7, chapter 12, and the provisions of Title 7, chapter 12, apply to [sections 1 through 7].

9
10 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2009.

11 - END -